

**STATE OF ALASKA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL**

**STANDARD OPERATING PROCEDURE**

**IX. TYPES OF STATE SERVICE**

**A. Purpose**

The purpose of this SOP is to describe differences among the exempt, partially exempt, and classified services and to provide procedures for moving positions from one service to another.

**B. Scope**

This SOP applies to all positions in State service. Movement of positions may have an effect on the collective bargaining unit of the positions and on the terms and conditions of employment for the incumbent. See SOP 07-VI for bargaining unit procedures.

**C. Authority**

AS 39.25.100 Classified Service  
AS 39.25.110 Exempt Service  
AS 39.25.120 Partially exempt service  
AS 39.25.130 Personnel Board may move positions between the partially exempt (PX) and classified services

**D. Executive Branch Services**

The executive branch of the State of Alaska includes three services.

**1. Exempt Service**

Positions in the exempt service are exempt from provisions of Title 39, Chapter 25, the Personnel Act, and the Personnel Rules adopted under it.

AS 39.25.110 lists the categories of positions in the exempt service.

**2. Partially Exempt Service**

Positions in the partially exempt (PX) service are those positions which are included in the position classification plan and are subject to Personnel Rules concerning classification and pay, but are not subject to rules governing recruitment and assessment, probationary periods, permanent status, nor most rules governing grievances and separations.

A person holding a position in the partially exempt service is not

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required to be assessed or compete through recruitment, and is not eligible for a hearing by the Personnel Board in the case of dismissal, demotion, or suspension. PX positions are specifically exempt from the rules established under AS 39.25.150(3)-(10), (12), (13), and (16), and are known as "appointive" rather than "career service" positions.

- a. Positions are placed in the partially exempt service by one of two methods:
  - 1) Positions may be placed in the partially exempt service by legislation. AS 39.25.120 specifies 20 categories of positions placed in the PX service. Additionally, enabling legislation creating a Board, commission or program may specify that particular positions shall be in the PX service.
  - 2) Other positions may be placed in the partially exempt service by Personnel Board action (AS 39.25.130).
- b. The Personnel Board, upon written recommendation of the Commissioner of Administration, may extend the partially exempt service to include any position in the classified service which, in the judgement of the Board:
  - 1) Involves principal responsibility for the determination of policy;
  - 2) Involves principal responsibility for the way in which policies are carried out; or
  - 3) Involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

The Personnel Board has given the following interpretation as to what constitutes "**principal**" responsibility for the way in which policies are carried out" (emphasis added).

. . . The test for PX classification under AS 39.25.130(a)(1) and (a)(2) emphasizes the word "principal" with respect to responsibility for policy determination and implementation. While there is no case law to interpret the meaning of "principal" in this context, the test of "principal" responsibility is **whether or not the employee, even though subject to later reversal, may**

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**determine or implement a policy without prior approval from above.**

Clearly the position needs to be the focal point for substantial policy making or policy implementation, must be able to determine or implement that policy subject only to subsequent reversal, and may also have a technical or professional decision-making role as long as the policy role is in strong evidence.

3. Classified Service

The vast majority of positions in the executive branch are included in the classified service, which consists of all positions in the State service not included in the exempt service or in the partially exempt service. (AS 39.25.100.) They are employed under the merit principles outlined in Title 39, Chapter 25 of the Alaska Statutes and covered by the Personnel Rules, 2 AAC 07.

E. Changes Between Types of Service

Positions may be changed from one service to another by three methods.

1. Application of Existing Statutes

AS 39.25.110 and AS 39.25.120 specify positions in the exempt and partially exempt services. In many cases, categories of positions are named (such as "the directors of the major divisions of the principal departments"). If a new division is created and approved and an existing position reclassified to division director, the division director position is placed in the partially exempt service by statute. Citing the statute in the reclassification memorandum is all that is needed to accomplish the service change.

2. Statutory Change

Legislation can be enacted to place additional positions in the exempt or partially exempt service. The proper format would be to amend both AS 39.25 and the enabling legislation for the department or division of the positions. Citing the new statutory provisions in a memorandum is all that is needed to accomplish the service change.

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3. Personnel Board Action

The Personnel Board may extend the PX service to include any position in the classified service meeting the tests outlined in D-2-b above.

The Personnel Board may extend the classified service to include any position in the PX service.

The following procedures apply to changes between the classified and PX services, and to initial placement of a new position in the PX service by action of the Personnel Board.

- a. The departmental human resources office transmits to the Division of Personnel a request to change a position's service. The request must include:
  - 1) A cover memorandum explaining why the service should be changed; and
  - 2) A new Position Description, an staffing chart, a Fair Labor Standards Act (FLSA) work sheet, if appropriate, and budget authorization if the position is new.
- b. The Division of Personnel will review the classification action and the service placement request and will submit it to the Personnel Board only if all documentation clearly supports the service change or initial placement.
- c. If the Division of Personnel agrees the request is appropriate, the division prepares a written recommendation to the Commissioner of the Department of Administration.
- d. Upon concurrence, the commissioner will send a written recommendation to the Personnel Board.
- e. The Director of the Division of Personnel, as Secretary to the Board, will coordinate scheduling a meeting of the Personnel Board at which the recommendation will be considered.
  - 1) Adequate public notice in newspapers is required.

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- 2) Notice must be sent to interested parties (department involved, incumbent of position, all human resources offices, and if required by collective bargaining agreement, the union representing the classified position.)
- 3) Requests will be grouped with previously scheduled Board meetings whenever possible.

f. At the hearing:

- 1) The Director of the Division of Personnel serves as Secretary to the Board.
- 2) The department's position, usually the division director, deputy commissioner or special assistant, is advocated by the department representative. This person will also answer Board questions and most likely be cross-examined by union counsel.
- 3) The Board may question the incumbent of a filled position.
- 4) The hearing may involve counsel for both the state and a union, arguments in favor of and opposed to the action, witnesses who are examined and cross-examined, and post hearing briefs.

g. The Personnel Board will make a decision and notify interested parties through the secretary.

h. The Division of Personnel will take the administrative actions required, such as reclassification memoranda, new specifications, notification of service changes, etc.

F. The Effect on an Employee

1. Classified to PX service:

If a filled position is placed in the partially exempt service, the employee has layoff rights (2 AAC 07.405). Alternatively, except for the Supervisory Bargaining Unit, the employee may be granted a leave of absence from the classified service, and have return rights (2 AAC 07.500). Refer to specific bargaining unit contracts for layoff procedures.

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NOTE: If there is a layoff, the incumbent may have bumping rights.

2. PX to Classified Service:

If the Personnel Board approves a change from the PX service to the classified service, the incumbent must compete through normal merit systems procedures and be selected in order to retain the position. The

incumbent has a one year transition period in which to do this under the rules adopted under AS 39.25.150(24), during which the incumbent may remain in the position.

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